

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 17, 2004

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B162629	People v. Vasquez
B163949	People v. Simmons
B164220	People v. Malveaux
B165098	People v. Cano
B165861	People v. Prado
B166018	DCFS v. Tanya T.
B166423	People v. Cabrera
B166589	People v. Abraham Q.
B167111	Citicorp Vendor v. E.S.G. Holdings
B167623	People v. Kastel B.
B169441	DCFS v. Louis P.
B171341	Kevin M. v. SCLA; DCFS

Argument waived, cause submitted.

B167361	People
	v.
	Johnson

Merits:

Argued by Barbara L. Sorem for appellant and by Analee I. Brodie, Deputy
Attorney General, for respondent. Cause submitted.

DIVISION ONE (Continued)

B164666 People
 v.
 Davin

Merits:

Argued by Jerald W. Newton for appellant and by April S. Rylaarsdam, Deputy Attorney General, for respondent. Cause submitted.

B165432 People
 v.
 James

Merits:

Argued by Walter L. Gordon, III for appellant and by David A. Voet, Deputy Attorney General, for respondent. Cause submitted.

Ortega, J. leaves the bench.

B165135 People
 v.
 Vasquez

Merits:

Argued by David C. Read for appellant and by Robert S. Henry, Deputy Attorney General, for respondent. Cause submitted.

B162872 WMW
 v.
 Winton

Merits:

Argued by Bennett A. Rheingold for appellant and by Gary A. Dordick for respondent. Cause submitted.

DIVISION ONE (Continued)

B163433 Swilley
 v.
 Southwest Airlines Co.

Merits:
Argued by Annell M. Swilley, appellant in propria persona and by Wesley
S. Wenig for respondent. Cause submitted.

Ortega, J. returns to the bench.

Mallano, J. leaves the bench.

B163280 People
 v.
 Daniels

Merits:
Argued by Rebecca P. Jones for appellant and by Elaine F. Tumonis,
Deputy Attorney General, for respondent. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench.

B165131 Shah, et al.
 v.
 Stillman, et al.

Merits:
Argued by E. Scott Holbrook, Jr. for appellants and by J. Cranor Richter for
respondents. Cause submitted.

Vogel, J. returns to the bench.

Ortega, J. leaves the bench.

DIVISION ONE (Continued)

B170003 Wilson
 v.
 Los Angeles Metropolitan Transportation Authority

Merits:
Argued by Robert B. Reagan for respondent and by Ronald S. Sofen for
appellant. Cause submitted.

B155279 United States Auto Security, et al.
 v.
 Morrison, et al.

Merits:
Argued by Robert Ungar for appellants and by Gregory S. Dovel for
respondents. Cause submitted.

Ortega, J. returns to the bench.

Vogel, J. leaves the bench.

B164324 California Factors & Finance, Inc., et al.
 v.
 Commerce Funding Corporation, et al.

Merits:
Argued by Lauriann C. Wright for appellants and by Einar Wm. Johnson
for respondent Commerce Funding and Cynthia A. Goodman for
respondent Johnson. Cause submitted.

Court adjourned.

DIVISION TWO

B164026 Rubin
v.
Sears, Roebuck and Co.

Filed order denying petition for rehearing.

DIVISION THREE

B154284 Gutierrez (Not for Publication)
v.
Farmers Insurance Group of Companies, et al.

The judgment is affirmed. Costs on appeal are awarded to Farmers.

Kitching, J.

We concur: Croskey, Acting P.J.
Aldrich, J.

B172033 Lisa M. (Not for Publication)
v.
Superior Court, Los Angeles County
(L.A. County Department of Children and Family Services, r.p.i.)

The petition is denied.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FIVE

B164961 People (Not for Publication)
v.
Marlon Shelmon

The judgment is modified as follows: as to count one, defendant is sentenced to a term of life (664), with a parole eligibility date of 15 years (186.22(b)(5)), plus a consecutive term of 25 years to life for the firearm enhancement (12022.53, subd. (d)); as to count two, defendant is sentenced to a term of life (664), with a parole eligibility date of 15 years (186.22(b)(5)), plus a consecutive term of 25 years to life for the firearm enhancement (12022.53, subd. (d)); the sentence for count two is to run concurrently with the sentence for count one. Defendant is also sentenced to a consecutive five year term for the prior serious felony conviction (667 (a)); and the one-year term imposed under 667.5(b) is stricken. The clerk of superior court is directed to prepare an abstract of judgment striking the 10-year gang enhancements and imposing instead a 15-year parole eligibility date for each count of attempted murder, and by striking the stayed one-year prior prison term enhancement and one of the five-year prior serious felony enhancements. As modified, the judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
Armstrong, J.

B165871 People (Not for Publication)
v.
Ray Torres

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

February 17, 2004 (Continued)

DIVISION FIVE (Continued)

[illegible]

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B165186 People (Not for Publication)
v.
Daniel Saucedo

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

DIVISION SIX

B166335	Ventura Co. Commercial Fisherman's Assoc., et al. v. California fish and Game Commission, et al.	(Not for Publication)
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The judgment (order denying ex parte temporary restraining order) is affirmed. Respondents are awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

DIVISION SIX (Continued)

B170266 San Luis Obispo Co. Department of Social Services (Not for Publication)

v.

Alicia W. and Frank L.,

In re Tobin L., a Person Coming Under the Juvenile Court Law.

The judgment (order terminating parental rights) is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Perren, J.

B166661 Carpenter (Not for Publication)

v.

Carpenter

The judgment (order awarding \$12,676.59 fees and costs payable in monthly installments of \$500 plus interest, and order denying motion to recover \$10,000 pendente lite fees) is affirmed. Wife is awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

B169302 People (Not for Publication)

v.

Leyva

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Perren, J.

DIVISION SIX (Continued)

B170471 The People (Certified for Publication)

V.
San Luis Obispo Superior Court
(Ortiz, r.p.i.)

Let a peremptory writ of mandate issue directing the Superior Court of San Luis Obispo County to vacate its order granting Ortiz's section 995 motion dismissing count 1 of the information alleging a violation of section 4573.6, and to enter a new order denying the motion and reinstating the section 4573.6 count.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B164552 People (Not for Publication)

V.
Dixon

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Coffee, J.

B165218 Tremper (Certified for Publication)

V. Quinones

The order denying the Trempers' application for attorney fees and costs is reversed. The matter is remanded to the trial court to set the amount of costs and fees to be awarded, without regard to whether those costs and fees were incurred in prosecuting the complaint or defending against the cross-complaint. The Trempers are awarded costs on appeal. In addition, they are entitled to attorney fees on appeal, in an amount to be determined on noticed motion in the trial court.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

February 17, 2004 (Continued)

DIVISION SIX (Continued)

B163650 People (Not for Publication)
v.
Starr

The judgment is reversed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B171800 Angela R. (Not for Publication)
v.
San Luis Obispo Superior Court
(San Luis Obispo Co. Dept. of Social Services, r.p.i.)

The petition is denied.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

DIVISION EIGHT

B164190 Bernstein, et al. (Not for Publication)
v.
DaCorsi

The order denying the special motion to strike is affirmed. Respondents to recover costs on appeal.

Flier, J.

We concur: Cooper, P.J.
Boland, J.

February 17, 2004 (Continued)

DIVISION EIGHT (Continued)

B162745 People (Not for Publication)
v.
Martinez

The judgment is affirmed.

Flier, J.

We concur: Cooper, P.J.
Rubin, J.

B162368 People (Not for Publication)
v.
Perez

We therefore affirm the judgment in all respects.

Flier, J.

We concur: Cooper, P.J.
Boland, J.